

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

IRONWOOD CAPITAL LTD.,

Plaintiff,

v.

IRONWOOD CAPITAL MANAGEMENT,
LLC; IRONWOOD PARTNERS, LLC; and
ICM SERIES TRUST,

Defendants.

Civil Action No. 04 CV 10726 PBS

JOINT STATEMENT

Pursuant to Local Rules 16.1(d) and FED. R. CIV. P. 16(b) & (c) and 26(f), plaintiff Ironwood Capital Ltd. ("Plaintiff"), and defendants Ironwood Capital Management, LLC, Ironwood Partners, LLC and ICM Series Trust ("Defendants") hereby submit the following joint statement:

I. Agenda

The matters to be discussed at the Scheduling Conference on July 1, 2004, shall include limiting the scope of the claims (both direct and counter) presently in dispute, discovery, filing of motions, potential for settlement, consenting to trial by Magistrate Judge and the potential use of alternative dispute resolution procedures.

A. Brief Summary of Proceedings to Date

Plaintiff filed the instant action on April 9, 2004, alleging, *inter alia*, that defendants' use of a colorable imitation of Plaintiff's federally registered IRONWOOD CAPITAL mark constitutes service mark/trademark infringement, trademark dilution, unfair competition and false designation of origin arising under the Trademark Act of

1946, 15 U.S.C. §§ 1051, *et seq.*, (the "Lanham Act"), and service mark and trade name infringement, unfair competition, deceptive trade practices and dilution under the laws of the Commonwealth of Massachusetts.

On May 18, 2004, Defendants filed their Answer to the Complaint herein and asserted Counterclaims against Plaintiff alleging, *inter alia*, fraud on the Patent and Trademark Office in procuring U.S. Reg. Nos. 2,509,356 and 2,469,393 that are directed to Plaintiff's IRONWOOD CAPITAL marks in violation of 15 U.S.C. §§ 1119 and 1120, and for common law unfair competition and deceptive trade practices in violation of M.G.L.C. 93A §§ 2 and 11.

Plaintiff filed its Answer and Affirmative Defenses to Defendants' Counterclaims on June 23, 2004.

Counsel for the parties conferred on June 4, 2004, pursuant to Local Rule 16.1(b) and FED. R. CIV. P. 26(f). Additionally, Plaintiff conveyed a written settlement proposal to Defendants' counsel on June 21, 2004, pursuant to Local Rule 16.1(c), annexed hereto as Exhibit A.

As agreed between the parties, initial disclosures pursuant to FED. R. CIV. P. 26(a)(1) were exchanged by counsel for the parties on June 22, 2004.

B. Proposed Pretrial Schedule and Discovery Plan

1. Amendments to Discovery Limits

At this time, the parties foresee no need to amend discovery limits beyond those set by the Federal Rules of Civil Procedure and/or Local Rule however, the parties reserve their right to move to amend such limits at a later date should good cause exist for such amendments, if any.

2. Schedule

The parties were unable to reach agreement on a schedule to govern the pretrial conduct of this action and, in particular, discovery deadlines. As such, each party has set forth its proposed schedule:

<u>Event</u>	<u>Plaintiff Deadline</u>	<u>Defendant Deadline</u>
Close of fact discovery	August 31, 2004	November 30, 2004
Designation of experts	September 1, 2004	December 1, 2004
Designation of rebuttal experts	September 15, 2004	January 1, 2005
Expert disclosures pursuant to FRCP 26(a)(2)	September 30, 2004	February 15, 2005
Close of expert discovery	October 31, 2004	April 1, 2005
Dispositive motions can be filed by either party at any time up to and including	November 30, 2004	May 15, 2005
Final Pretrial Conference	December 30, 2004	June 1, 2005 if no Motion for Summary Judgment has been filed; Otherwise, 30 days after receipt of the Court's ruling on Motion for Summary Judgment
Trial	January 2005 (subject to the Court's schedule)	At the Court's convenience, but not less than 30 days after the Final Pre-Trial Conference

C. Trial By Magistrate Judge

The parties do not consent to trial by Magistrate.

II. Certification

The parties will each submit separate certifications stating that they have each conferred with counsel with a view of establishing a budget for the costs of

conducting full course—and various alternative courses—of the litigation, and to consider the resolution of the litigation through the use of alternative dispute resolution programs, in advance of or at the July 1, 2004 scheduling conference in the matter.

Respectfully submitted,

IRONWOOD CAPITAL LTD.,
By its attorneys,

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Respectfully submitted,

IRONWOOD CAPITAL MANAGEMENT
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ICM SERIES TRUST, By their attorneys,

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Dated: June 24, 2004